

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:07CV332-03-MU

CHRISTOPHER E. YOUNG,)
)
Plaintiff,)
)
v.)
)
HENDERSON COUNTY; HENDERSON)
COUNTY DISTRICT ATTORNEY,)
)
)
Defendants.)
_____)

ORDER

THIS MATTER comes before the Court on initial review of Plaintiff's Complaint under 42 U.S.C. § 1983, filed October 18, 2007. (Document No. 1.)

A cause of action pursuant to § 1983 requires a deprivation of a right secured by the Constitution or other law of the United States by a person acting under color of state law. Here, Plaintiff names the District Attorney of Henderson County and Henderson County as defendants to this lawsuit. Local governing bodies, such as counties, are "persons" that can be sued under 1983 when the alleged unconstitutional actions executes governmental policy or custom. Monell v. Department of Social Services, 436 U.S. 658 (1978). However, Plaintiff does not articulate any governmental policy or custom in connection with his detention of four months. Therefore, Henderson County is not properly named as a defendant in this case and is dismissed. Next, Plaintiff names the Henderson County District Attorney as a defendant to this lawsuit. The Court notes that while the district attorney is a state actor, he/she is a quasi-judicial officer entitled to absolute immunity when performing prosecutorial functions. Imbler v. Pachtman, 424 U.S. 409, 430-31 (1976). Here, because it appears that the district attorney was performing his prosecutorial functions,

he is entitled to absolute immunity and is therefore dismissed.

For the reasons stated above, both Defendants to this action are dismissed and therefore, Plaintiff's Complaint is also dismissed for failure to state a claim for relief.

NOW, THEREFORE, IT IS HEREBY ORDERED that Plaintiff's Complaint is Dismissed for failure to state a claim for relief.

SO ORDERED.

Signed: October 23, 2007

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

